

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

February 18, 1999 LB 331

hurt. Management, however, said this: look, we're in business, we're legitimate businesses and we pay these costs. If a company doesn't pay these costs, they get an unfair benefit. They can go out and compete for business, hide the fact that they're not doing this kind of good practice as an employer, hope that they never get caught, and beat us because they can lower their prices 'cause they're not paying for workers' compensation insurance. So we created a compliance mechanism to pick up to learn employers who weren't carrying workers' compensation. In 1996, the court discovered 24 employers who were going bare that the court was able to cajole or threaten into getting coverage for their employees; in 1997 the number was 54; last year it was 92. What that means is that there's a...that's the tip of the iceberg and we're not discovering all of it. What these companies do, some of them comply, under the court's threat; some of them go out of business; some of them change their name, their location, reorganize and attempt to defeat the system. Now, currently, we allow for a Class I misdemeanor violation or an injunction against a business until the insurance is obtained, but both of those are problematical. We'll find, for example, that it's very hard to get prosecutors to go after a guilty...a Class I misdemeanor and the injunction might work for some business doing business as, but what happens when they reorganize? You got to go in and get a new injunction. Court says this: we need the power to level a monetary penalty of not more than \$1,000 a day for a violation of the act for not having workers' comp. By the way, these kinds of penalties are not unusual. There are many of them for the Department of Insurance, many for the Department of Banking. These are not unusual. There is a problem out there and what we have are two forms of remedy which certainly can be threatened and might be...might be effective in some circumstances, but also might be subject to being defeated. The court would like more options and this gives both the compensation court or the state district court, should it have one of these injunction cases brought to it, the power to create this administrative civil penalty. Second thing that's in the bill, and that is that in the event an insurance company, a risk management pool, or a self-insured fails to satisfy its obligations, under the work comp law, to comply with the orders of the court, if you will, that repeated violations can also order a payment of more than \$1,000. Why? Because now the only thing the court can do